

OPENING REMARKS OF FCC COMMISSIONER MICHAEL O'RIELLY
NG911 INSTITUTE: "LUNCH AND LEARN: CHALLENGES AND OPPORTUNITIES
FOR FUNDING THE FUTURE 9-1-1"
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Thank you, Patrick, for that kind introduction. Whenever I get the chance to return to Capitol Hill, I tend to jump at the opportunity. The fact that we are here today to discuss key 9-1-1 public safety matters, an issue area that I have spent a great deal of time and energy working on, makes it all the more gratifying.

Being asked to say a few opening remarks prior to the distinguished panel to follow is a bit daunting. It is a little like practicing free throws at the local park while Michael Jordan's waiting courtside or doodling in a notebook with Walt Disney staring over your shoulder. As many of you know, the upcoming panelists are experts in the field and have spent considerable time dissecting all of the issues involving funding for current 9-1-1 systems and future NG9-1-1 networks. Thankfully, my modest role is just to help set the stage for their discussion by outlining some views on pertinent 9-1-1 issues.

Fee Diversion

It seems only appropriate to start with the critical problem of 9-1-1 fee diversion by certain states and its impact on public safety. For those unfamiliar, a number of states currently divert monies collected from consumers under the guise of funding 9-1-1 systems and transfer it to either unrelated public safety purposes or, worse yet, totally unconnected functions. In some cases, this means a state is deceiving taxpayers by collecting more than is actually needed to fund its 9-1-1 system and redirecting the excess to other spending purposes. Alternatively, and this is actually much more reckless, the diversion of 9-1-1 fees can leave a state's system shortchanged and potentially unable to fully meet its public safety needs, delaying necessary updates, training, worker retention, and the like.

In 2016, the annual FCC report required by Congress indicated that eight states and a U.S. territory were guilty of fee diversion for the previous twelve month period. These are Illinois, Iowa, New Hampshire, New Jersey, New York, Rhode Island, Washington, West Virginia, and Puerto Rico. And we are not just talking about a little diversion, we are talking about a significant amount of funds. To put it in perspective, the diversion rates of the top three - New York, Rhode Island and New Jersey - were 42 percent, 68.4 percent and 89.9 percent, respectively. Moreover, this issue is not just about these states; over the years, other states have also diverted funding for a time period and continue to see these collections as a readily available source of cash. For instance, the Governor of Montana, a state that used to divert fees, was recently looking to close a budget shortfall and had the creative notion to divert reserves in its 9-1-1 account to other purposes. The idea was eventually killed, but it highlights the continuous threat to the sanctity of 9-1-1 fees.

Being one who tries to actually solve problems, I recently offered three, non-mutually exclusive ways in which the FCC could stop the fee diversion practice. First, the Commission retains the right to bar diverting states from imposing 9-1-1 fees on *interstate* calls. That means a good percentage of wireless services, landline voice services and all VoIP services, at least in my view, would be off limits for such states. By prohibiting interstate services from being included as revenue sources, the pot of money diverting states would have to pickpocket would be minimized.

Second, the Commission has previously prevented communications providers from including misrepresentations or inaccurate information in requisite consumer bills. Accordingly, the Commission could prevent any providers from collecting such funds or remitting them to diverting states.

Lastly, and probably least effective, the Commission can and should exclude any person from a diverting state from participating on one of our advisory committees. This can be done without losing valuable advice as there are plenty of experts from non-diverting states from which to choose.

I don't mean to suggest that these are the only ways to go about reestablishing faith in our 9-1-1 fee collection process. There may be others, and some that may be markedly better than these suggestions. I would welcome anyone's ideas on how the Commission can prevent this practice from occurring in the future. However, what I am unwilling to do is just accept it as a fait accompli that states will continue to divert and there is nothing that can be done about it. On this note, I was disappointed to learn that just after I made my suggestions public, which few have done, an affected association said my ideas could have unintended consequences but then failed to suggest any way to change the status quo. Quite frankly, I contend that they should have been cheering that someone was actually trying to solve the problem.

NG911 Funding

Aside from fee diversion, the larger and more difficult matter pertinent to today's discussion is addressing the transition and adoption of Next Generation 9-1-1 systems, or NG911. On the benefits side, this crowd needs little introduction into what NG911 may bring: a fully integrated and standardized IP-platform fully capable of handling voice and data to facilitate information sharing and ultimately greater emergency response services. For public safety personnel, it's the opportunity to have huge swaths of data at your fingertips in order to better assess and respond to incidents.

At the same time, there are a host of overall challenges in moving to an IP-based structure. These range from technology-specific issues and the standard-setting process to worker retraining. The biggest problem, and the one most pressing, is locating and securing the funding to migrate thousands of Public Service Answering Points (PSAPs) in a seamless and cost-efficient manner.

There is no doubt that NG911 is going to be an expensive undertaking and cost estimates are all over the map. Consider a 2011 FCC White Paper that put the total nationwide PSAP costs at anywhere between \$1.44 billion and \$2.68 billion.¹ Compare that to one done for the State of Oregon at the same time that calculated that state's ten-year costs at approximately \$82 million.² Do the math, 50 states plus the U.S. territories times \$82 million and it's over \$4 billion. Today's panelist from the National 911 Program at the U.S. Department of Transportation hopefully will provide greater details about its current project to estimate the overall costs.

¹ FCC, PUBLIC SAFETY AND HOMELAND SECURITY BUREAU, WHITE PAPER: A NEXT GENERATION 911 COST STUDY: A BASIS FOR PUBLIC FUNDING ESSENTIAL TO BRINGING A NATIONWIDE NEXT GENERATION 911 NETWORK TO AMERICA'S COMMUNICATIONS USERS AND FIRST RESPONDERS, Sept. 2011, https://apps.fcc.gov/edocs_public/attachmatch/DOC-309744A1.pdf.

² REPORT FOR NEXT GENERATION 9-1-1 ANALYSIS PREPARED FOR STATE OF OREGON OFFICE OF EMERGENCY MANAGEMENT, March 2011, https://www.oregon.gov/OMD/OEM/or911/docs/kimball_phase_1_oregon_ng911_cost_analysis.pdf

So, just exactly where will these multiple billions of dollars necessary to fully deploy NG911 be found? Since the FCC is unlikely to be able to provide any funding, I am going to leave this topic to the panel. However, I do want to provide some guidance for consideration. Many people, including officials during the previous Commission, have suggested that NG911 costs should be covered by some type of new fee imposed on broadband services or Internet providers. As you can imagine, such an approach can be full of considerable downsides and I recommend extreme caution before anyone gravitates in this direction.

Need for PSAP Structural Reform

Since funding is the key focus of today's discussion, it also seems appropriate to consider how the funding is actually used and whether it can be spent more effectively. Let's acknowledge that modern technology has altered the need for almost six thousand PSAPs nationwide.³ The real question becomes is there a way to design a more efficient overall system that allows for a reduction in the number of current facilities without increasing the risk to public safety? I suggest that the answer to this is most certainly, yes. In fact, it's been done in a number of states already and others are in the middle of doing so.

In a perfect world, we should be able to reduce the number of PSAPs by a third or perhaps by half, and the savings in terms of labor, space, equipment, and services would help pay for the upgrades to those facilities that remain. And this can likely be done without increasing call wait times, dispatch inaccuracies, or location misidentifications. Such talk, however, has been considered heresy in the PSAP community for reasons I can't explain beyond simple, raw politics.

The real impact of not conducting PSAP consolidation is that NG911 will take infinitely longer and have a cost factor of many multiples. I had hoped that a recent FCC Task Force intended to examine this exact issue would have provided data points to help understand and quantify these potential changes. Unfortunately, the mere use of the word consolidation was an anathema to the appointed panelists and the work was ultimately ignored. That should be telling to everyone working on these issues.

Closing

As I prepare to cede the floor to the upcoming panel, let me make one additional point clear: while I have advocated certain positions in the past, including legislative changes by Congress, I am not – and am prohibited by law from doing so – advocating that any of you lobby or seek to influence Congress in any manner.

With that, I want to thank you so very much for your attention and offer best wishes for the rest of the program.

³ 9-1-1 Statistics, NENA.ORG, <https://www.nena.org/?page=911Statistics> (last visited Apr. 12, 2017).